

REMARKS

The Official Action of October 18, 2007, and the prior art cited and relied upon therein have been carefully studied. The claims in the application are now claims 53-58, and these claims define patentable subject matter warranting their allowance. Favorable reconsideration and such allowance are respectfully urged.

New claims 54-58 have been added. Claims 53-58 remain in the application for consideration.

The Examiner has rejected claim 53 under 35 U.S.C. §103(a) as being unpatentable over Van Walraven '900. Applicant strongly traverses this rejection as applied to unamended claim 53 and new independent claims 54 and 58.

The Examiner maintains that where a method step is recited in an article claim, only the article recited by the method need be considered. On the basis of this position, the Examiner indicates that he has not taken into consideration the terms "vulcanized" or "by dehydration of salt which remains in the cavities."

Applicant respectfully submits that the Examiner's position that method steps need not be considered in apparatus

claims not only has no basis under Patent Office policy but is explicitly rejected by the following language in §2113 of the MPEP, copy enclosed.

The structure implied by the process steps should be considered when assessing the patentability of product-by-process claims over the prior art, especially where the product can only be defined by the process steps by which the product is made, or where the manufacturing process steps would be expected to impart distinctive structural characteristics to the final product. See e.g., *In re Garnero*, 412 F.2d 276, 279, 162 USPQ 221, 223 (CCPA 1979).

This policy is implemented in case law, as for example in, *In re Luck and Gainer*, 177 USPQ 524, wherein it is indicated that,

As for the method of application, it is well established that product claims may include process steps to wholly or partially define the claimed product. See *In re Brown*, 459 F.2d 531, 535, 173 USPQ 685 688 (CCPA 1972).

Accordingly, absent any teaching of the above terms being taught in Van Walraven '900, it is clear that both independent claims 53 and new independent claim 58 patentably define over Van Walraven '900 for the reasons set out in Applicant's August 27, 2007 response, incorporated herein by reference.

Applicant has further introduced new independent claim 54 which has been drafted to eliminate the method terminology which the Examiner has incorrectly refused to consider and to present the inventive features claimed as apparatus. Accordingly, new claim 54 sets out a vibration isolation member having "substantially unpressured cavities" and "a chemical from which water has been cleaved", i.e. a dehydrated salt. The basis for these structural features is found on page 11, lines 22 on through line 1 on page 12 of the specification. Applicant submits that there is clearly no teaching of this combination of structural features in Van Walraven '900 as set out in Applicant's August 27, 2007 response.

Applicant respectfully submits that the claimed invention patentably defines over Van Walraven on the basis of the clear differences identified above.

The prior art documents made of record and not relied upon have been noted along with the implication that such documents are deemed by the PTO to be insufficiently pertinent to warrant their applications against any of applicant's claims.

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Reply to Office Action of October 18, 2007

Favorable reconsideration and allowance are
earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By



Norman J. Latker
Registration No. 19,963

NJL:ma

Telephone No.: (202) 628-5197

Facsimile No.: (202) 737-3528

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